

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

PATRICIA BURK,)	
)	
Plaintiff,)	CIVIL COMPLAINT
)	
v.)	
)	
PRIME RECOVERY LLC,)	
)	
Defendant.)	JURY DEMAND
)	
)	

COMPLAINT

Now comes PATRICIA BURK (“Plaintiff”), complaining as to PRIME RECOVERY LLC, (“Defendant”) as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action pursuant to the Fair Debt Collection Practices Act (“FDCPA”) under 15 U.S.C. § 1692 *et seq.*

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. § 1692, as well as 28 U.S.C. §§ 1331 and 1337, as the action arises under the laws of the United States.

PARTIES

4. Plaintiff is a natural person residing in the State of Michigan.

5. Defendant is a third-party debt collector located in the Western District of New York.

BACKGROUND

6. Plaintiff incurred a debt for personal (not business) purposes.

7. Upon information and belief, Defendant received Plaintiff's account and began to collect upon it.

8. Within the last few months, Defendant began making calls to Plaintiff in connection with collecting the debt from 888-801-1153.

9. Defendant, in the course of collecting upon the debt, engaged in conduct violative of federal law as set forth in the following paragraphs.

10. Defendant left at least two voicemails and made at least four phone calls to Plaintiff with, on information and belief, the intent to annoy, abuse, or harass Plaintiff.

11. Defendant made these calls and voicemails on or around the following dates: September 12, 2019; September 13, 2019; September 17, 2019.

12. On information and belief, the purpose of Defendant's unlawful actions, as set forth above, were to harass Plaintiff into paying the purported debt.

13. Defendant referenced a case number in a voicemail to Plaintiff, misrepresenting to her that legal action had begun when it had not.

14. Further, in another voicemail Defendant implied that Plaintiff would be sued if she did not cooperate in the matter.

15. On reference and belief, Defendant does not customarily sue consumers in Michigan.

16. On information and belief, Defendant did not intend to sue Plaintiff if she refused to pay.

17. On each occasion, Defendant failed to disclose that they are a debt collector or that they were attempting to collect a debt.

18. Plaintiff has suffered, among other things, stress, anxiety, confusion, and a violation of Plaintiff's legal rights as a result of these actions.

COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

19. Plaintiff realleges the paragraphs above as though fully set forth herein.

20. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) of the FDCPA.

21. Defendant is a "debt collector" as defined by § 1692a(6) of the FDCPA because the principal purpose of its business is the collection of debts, and because it uses the instrumentalities of interstate commerce to do so.

22. In the alternative, Defendant is a "debt collector" under § 1692(a)(6) because it regularly collects or attempt to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

23. Defendant's actions, as stated above, violate the following provisions of the FDCPA: § 1692d and § 1692e.

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned bodies of law;
- b. Awarding Plaintiff statutory damages in connection with the counts set forth above;

- c. Awarding Plaintiff actual damages;
- d. Awarding Plaintiff reasonable attorney fees;
- e. Awarding Plaintiff the costs of this action; and
- f. Awarding any other relief as this Honorable Court deems just and appropriate.

A TRIAL BY JURY IS DEMANDED.

Dated: November 25, 2019

By: s/ Jonathan Hilton

Jonathan Hilton (0095742)
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